

Before the State of South Carolina  
Department of Insurance

In the matter of:

Richard Russell/ McGinty-Gordon Assoc.

225 Marina Drive

Post Office Box 20668

St. Simons, Georgia 31522.

SCDOI File Number 2003-121587

**Consent Order  
Imposing Administrative Fine  
As Precondition To Licensure**

This matter comes before me pursuant to an agreement entered into between the State of South Carolina Department of Insurance and Richard Russell, a Georgia resident insurance agent.

The respondent and his Agency hereby admit, and I find as fact, that acted as a nonresident insurance broker in South Carolina without holding a license to do so and that it permitted some of its employees to act in the capacity of South Carolina nonresident insurance brokers without them being properly licensed or otherwise authorized to do so.

The parties have agreed to submit the entire matter to me, along with their specific recommendation, for my summary decision. The consensual recommendation was that Richard L. Russell and McGinty-Gordon & Associates (the Agency) would waive their right to a public hearing, submit, via certified check, a negotiated and consensual administrative fine in the total amount of \$3,000, and submit an application to be properly licensed as a nonresident broker entity.

Section 38-45-30 of the South Carolina Code of Administrative Laws requires every insurance broker to be licensed and provides that the term "broker" as used in the state's insurance laws is considered to include an agency, unless the context requires otherwise. It specifically provides that "no person may act as a non resident insurance broker...unless a broker's license has been issued to him by the director or his designee."

After a thorough review of the record, carefully considering the recommendation of the parties, and in accordance with my findings of fact, I now conclude, as a matter of law, that Richard L. Russell and the Agency have violated S.C. Code Ann. §§ 38-45-10, 38-45-30 and 38-43-30 (Supp. 2002). However, under the discretionary authority provided to me by the General Assembly within S.C. Code Ann. §§ 38-2-10 (1) and 38-43-130 (2002), I hereby require the Mr. Russell and the Agency to submit a properly completed application to become licensed as a nonresident insurance broker within 30 days of my date and signature upon this consent order and submit, as a precondition to its licensure, an administrative fine in the total amount of \$3,000, which must be paid within ten days of the date of my signature upon this consent order.

The parties have reached this recommendation in consideration of the Mr. Russell's and the Agency's desire to become licensed as nonresident insurance brokers and to have properly licensed each agent on its staff that transacts business as a nonresident insurance broker in South Carolina. It is also made in consideration of their assurance that they and their employees will fully comply with the insurance laws of South Carolina in the future. The parties expressly agree and understand the Agency's payment of the agreed-upon penalty constitutes full accord and satisfaction of this matter. This penalty includes all expenses related to investigation of this matter as provided in § 38-13-70 of the South Carolina Code.

By the signature of one of their representatives upon this consent order, Richard Russell and the Agency acknowledge that they understand that this administrative order is a public record subject to the disclosure requirements of the State of South Carolina's *Freedom of Information Act*, S.C. Code Ann. §§ 30-4-10, *et seq.* (1991 and Supp. 2000). Nothing contained within this administrative order should be construed to limit, or to deprive any person of, any private right of action under the law. Nothing contained within this administrative order should be construed to limit, in any manner, the criminal jurisdiction of any law enforcement officer or judicial officer. Nothing contained within this administrative order should be construed to limit the statutory duty, pursuant to S.C. Code Ann. § 38-3-110 (Supp. 2000), of the Director of Insurance, exercised either directly or through the Department of Insurance, to "report to the Attorney General or other appropriate law enforcement officials criminal violations of the laws relative to the business of insurance or the provisions of this title which he considers necessary to report."

It is therefore ordered that Richard L. Russell shall, within ten days of the date of my signature on this consent order, pay through the South Carolina Department of Insurance an administrative fine in the total amount of \$3,000.

It is further ordered that Mr. Russell and the Agency must submit an application to become licensed as nonresident insurance brokers within 30 days of the date of this order.

Finally, it is also ordered that a copy of this consent order shall be transmitted to the National Association of Insurance Commissioners for distribution to its member states and a copy of this order placed in the Agent's licensing file.

This consent order becomes effective as of the date of my signature below.

June 2, 2004, at  
Columbia, South Carolina



Ernst N. Csiszar  
Director

I Consent:

Richard L. Russell

Signature of Authorized Representative

Richard L. Russell

Name

Vice President

Title

McGinty-Gordon & Associates  
225 Marina Drive- Marina Village  
Post Office Box 20668  
St. Simons Island, Georgia 31522

Dated this 24 day of May, 2004